IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE FIRST DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

**THE HON'BLE MR JUSTICE BILAL NAZKI**

**and**
**THE HON'BLE MR JUSTICE S.ANANDA REDDY**

**WRIT PETITION NO : 19801 of 2004**

Between:

M/s.Sri Vigneswara Raw & Boiled Rice Mill, Rice Mill complex,

Allipuram Road, Allipuram, Nellore-524002, rep.by its partner,

Mr.M.V.Sudhakar.

**..... PETITIONER**

AND

1 The Asst. Commissioner (CT), Intelligence, Nellore.
2 The Deputy Commissioner (CT), Nellore.
3 The Additional Commissioner (CT), Legal, Andhra Pradesh, Nampally

Hyderabad.

**.....RESPONDENTS**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ of certiorari of any other appropriate writ or order or direction quashing the order of the 3rd Respondent in CCT's Ref.LV(1)/878/04 dated 27-8-2004 as unreasonable and unjustified and also restrain the 1st Respondent from collecting the balance disputed penalty of Rs.7,45,296/- for the assessment year 2001-02 (penalty) pending disposal of the appeal filed before the sales Tax Appellate Tribunal in T.A.No.1269/2004.

**Counsel for the Petitioner:MR.S.DWARAKANATH**

**Counsel for the Respondents1 to 3: GP FOR COMMERCIAL TAXES**

**The Court at the stage of admission made the following :**

**ORDER:** (per the Hon'ble Sri Justice Bilal Nazki)

The case is disposed of with the consent of the learned counsel for the parties at this stage.

An appeal is pending before the Tribunal. The amount in question is the amount, which is sought to be recovered by way of penalty. 30% of the disputed penalty amount has already been deposited. Stay petition has been dismissed.

In the circumstances of the case, we feel that as already 30% of the disputed penalty amount has been deposited, stay should have been granted to the petitioner. The order of the Additional Commissioner is set aside. Stay is granted till disposal of the appeal.

The writ petition is accordingly disposed of. No order as to costs.

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BILAL NAZKI, J

Dated: 01.11.2004

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S.ANANDA REDDY, J

GJ

To

1 The Asst. Commissioner (CT), Intelligence, Nellore.
2 The Deputy Commissioner (CT), Nellore.
3 The Additional Commissioner (CT), Legal, Andhra Pradesh, Nampally

Hyderabad.

4 2 CCs to the Government Pleader for Commercial Taxes, High Court

Buildings, High Court of A.P., Hyderabad.(OUT)

5 2 C.D.copies